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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/686,714	10/10/2000	Jere F. Irwin	IR3 -012	4661

21567 7590 06/02/2004  
WELLS ST. JOHN P.S.  
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SPOKANE, WA 99201

EXAMINER

CHOI, STEPHEN

ART UNIT	PAPER NUMBER
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3724

DATE MAILED: 06/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/686,714

Applicant(s)

IRWIN, JERE F.

Examiner

Stephen Choi

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 2/19/04 & 3/18/04.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 29-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 35-38 is/are allowed.
- 6) ☒ Claim(s) 29-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 29-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Arends et al. (US 4,173,161) in view of Wittek (US 1,796,417).

Arends discloses the invention substantially as claimed except for a web conveyor having a drive motor, a drive wheel, and a follower wheel, and a knock lever mechanism having a knock lever arm and a kinematic linkage having a center pivot. Instead, Arends employs feed fingers mounted on a vertically moving block to engage and disengage from the workpiece. However, Wittek discloses a web conveyor having a drive motor (11), a drive wheel (22), and a follower wheel (21), a knock lever mechanism having a lever arm (end portion of 43) and a kinematic linkage (43) having a center pivot (43A) wherein the lever arm is carried at one end of the kinematic linkage and the drive wheel (22) is carried at an opposite end of the kinematic linkage (via 22B) for intermittently feeding the workpiece at varying lengths. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a web conveyor assembly and a knock lever mechanism as taught by Wittek on the device of Arends as an alternative structure for providing the stepwise advancing of the workpiece.

***Allowable Subject Matter***

3. Claims 35-38 are allowed.

***Response to Arguments***

4. Applicant's arguments filed 18 February 2004 have been fully considered but they are not persuasive.

Applicant contends that Wittek fails to teach or suggest the knock lever arm that is configured to carry at least one of the drive wheel and the follower wheel as in claim 29.

The knock lever arm (43) of Wittek operates to lift the follower wheel (21) via a bearing 22<sup>B</sup>. Thus, the knock lever arm of Wittek is configured to carry the follower wheel. The claim does not require the knock lever arm being attached or connected to one of wheels.

Applicant further contends that Wittek fails to teach or suggest moving one of the wheels to open a gap and release respective edge of the web during a severing operation as recited in claim 29 and Wittek does not even contemplate opening the gap between rollers to facilitate alignment and centering of the web.

The rejections are based on combination of Arends and Wittek. Wittek teaches moving one of the wheels to open a gap so as to release the workpiece from feeding. Hence, the modified device of Arends is configured to move one of wheels to open a gap as claimed. One cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. Furthermore, the examiner respectfully requests the applicant to identify what structure facilitates

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"alignment and centering of the web and articles carried by the web" as recited in claim 29. The claim recites "a web guide plate" and "a guide strip"; however, it is unclear what structure facilitates alignment and centering of the web and articles. If the limitation is referring to release of edges of the web, the modified device meets the limitation as set forth above.

In addition, applicant contends that there is no teaching or suggestion as to what components of Wittek should be selected and somehow combined with components of Arends.

The examiner's rejection relied on the teachings of Wittek on the use of feeding device interrelating with a tool for intermittently feeding the workpiece as an alternative structure for providing the stepwise advancing of the workpiece. It is the examiner's position that one having ordinary skill in the art would have the knowledge to incorporate the teachings of Wittek on the device of Arends to arrive at the claimed invention. The test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art.

### ***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Choi whose telephone number is 703-306-4523. The examiner can normally be reached on Monday-Friday 9:00-3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on 703-308-2187. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

sc  
28 May 2004

  
**STEPHEN CHOI**  
**PRIMARY EXAMINER**